

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES M. ICARD,

Plaintiff,

v.

ECOLAB INC.,

Defendant(s).

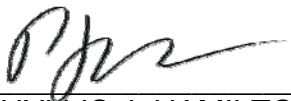
No. C 13-5097 PJH

**ORDER GRANTING MOTION TO
DISMISS THIRD AMENDED
COMPLAINT**

Defendant's motion to dismiss the third amended complaint ("TAC") came on for hearing before this court on January 22, 2014. Plaintiff James M. Icard ("plaintiff") appeared through his counsel, Michael Strauss. Defendant Ecolab, Inc. ("defendants") appeared through its counsel, Peter Maretz and Arch Stokes. Having read the papers filed in conjunction with the motions and carefully considered the arguments and relevant legal authority, and good cause appearing, the court hereby GRANTS defendant's motion to dismiss for the reasons stated at the hearing. Plaintiff did not obtain defendant's consent or leave of court before filing the TAC, as required by Federal Rule of Civil Procedure 15(a), and as a result, the TAC must be DISMISSED. The second amended complaint remains the operative complaint. As stated at the hearing, plaintiff may seek a stipulation from defendant regarding any amendment to the complaint, and if such a stipulation is not obtained, plaintiff may file a motion to amend the complaint.

IT IS SO ORDERED.

Dated: January 24, 2014



PHYLLIS J. HAMILTON
United States District Judge